1993 No. 145

HOUSING; RATES

The Housing Benefit (General) (Amendment) Regulations (Northern Ireland) 1993

Made . . . . . 26th March 1993

Coming into operation in accordance with regulation 1(1)

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 122(1)(*d*), 129(2) and (4), 132(1), (3) and (4)(*a*) and (*b*) and 133(2)(*h*) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**a**) and of all other powers enabling it in that behalf, and after agreement by the Social Security Advisory Committee that proposals to make these regulations should not be referred to it(**b**), hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Housing Benefit (General) (Amendment) Regulations (Northern Ireland) 1993 and shall come into operation as follows—

(*a*) regulation 1 on 1st April 1993;

(*b*) regulations 2 to 14 in any case to which paragraph (2) applies, on 1st April 1993 and in any other case, on 5th April 1993;

(2) This paragraph applies in any case where—

(*a*) rent is payable at intervals of one month or any other interval which is not a week or a multiple thereof; or

(*b*) payments by way of rates are not made together with payments of rent at weekly intervals or multiples thereof.

(3) In these regulations "the principal regulations" means the Housing Benefit (General) Regulations (Northern Ireland) 1987(**c**).

(4) The Interpretation Act (Northern Ireland) 1954(**d**) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

Amendment of regulation 2 of the principal regulations

2. In regulation 2(1) of the principal regulations (interpretation)—

(*a*) for the definition of "community charge benefit" there shall be substituted the following definition—

(**a**) 1992 c. 7
(**b**) *See* section 150(1)(*b*) of the Social Security Administration (Northern Ireland) Act 1992 (c. 8)
(**c**) S.R. 1987 No. 461; relevant amending regulations are S.R. 1988 No. 424, S.R. 1989 No. 125, S.R. 1990 Nos. 33, 136 and 345, S.R. 1991 Nos. 47, 204, 337 and 520 and S.R. 1992 No. 141
(**d**) 1954 c. 33 (N.I.)

" "community charge benefit" means community charge benefits under Part VII of the Social Security Contributions and Benefits Act 1992 as originally enacted(**a**);";

(*b*) the definition of "community charge rebate" shall be omitted;

(*c*) after the definition of "concessionary payment" there shall be inserted the following definition—

" "council tax benefit" means council tax benefit under Part VII of the Social Security Contributions and Benefits Act 1992;".

Amendment of regulation 5 of the principal regulations

3. In regulation 5 of the principal regulations (circumstances in which a person is or is not to be treated as occupying a dwelling as his home)—

(*a*) in paragraph (5)(*a*)—

(i) at the beginning there shall be inserted "for a period not exceeding 52 weeks in the case";

(ii) for "and it is reasonable" there shall be substituted—

"and—

(i) it is reasonable";

(iii) for "the home;" there shall be substituted—

"the home, and

(ii) he intends to return to occupy the former dwelling as his home;";

(*b*) in sub-paragraph (*c*) at the end "or" shall be omitted;

(*c*) in sub-paragraph (*d*) for "unavoidable." there shall be substituted "unavoidable; or";

(*d*) after sub-paragraph (*d*) there shall be added the following sub-paragraph—

"(*e*) in the case where a person—

(i) is treated by virtue of paragraph (6) as occupying a dwelling as his home ("the new dwelling") and sub-paragraph (*c*)(i) of that paragraph applies, and

(ii) he has occupied another dwelling as his home on any day within the period of 4 weeks immediately preceding the date he moved to the new dwelling,

for a period not exceeding 4 benefit weeks immediately preceding the date on which he moved.";

(*e*) in paragraph (7) after "housing benefit" in both places where those words appear there shall be inserted "in respect of that dwelling";

(*f*) after paragraph (7) there shall be inserted the following paragraph—

(a) 1992 c. 4; Part VII was amended by section 103 of, and Schedule 9 to, the Local Government Finance Act 1992 (c. 14) which replaced references to community charge benefit with references to council tax benefit

"(7A) Where a person—

(*a*) formerly occupied a dwelling but has left and remains absent from it through fear of violence—

(i) in the dwelling, or

(ii) by a person who was formerly a member of the family of the person first mentioned; and

(*b*) has a liability to make payments in respect of that dwelling which is unavoidable,

he shall be treated as occupying the dwelling as his home for a period not exceeding 4 benefit weeks.".

Amendment of regulation 10 of the principal regulations

4. In regulation 10(3) of the principal regulations (rent)—

(*a*) in sub-paragraph (*a*) at the end "and" shall be omitted;

(*b*) in sub-paragraph (*b*) for "Schedule 1." there shall be substituted "Schedule 1; and";

(*c*) after sub-paragraph (*b*) there shall be added the following sub-paragraph—

"(*c*) where he is liable to make payments in respect of any service charges to which paragraph (1)(*e*) does not apply, but to which paragraph 2(1A) of Schedule 1 (ineligible service charges) applies in the particular circumstances, an amount in respect of such charges determined in accordance with paragraph 2(1A) of Schedule 1.".

Amendment of regulation 30 of the principal regulations

5. In regulation 30 of the principal regulations (earnings of self-employed earners)—

(*a*) for " "Earnings" " there shall be substituted—

"—(1) Subject to paragraph (2), "earnings" ";

(*b*) after paragraph (1) there shall be added the following paragraph—

"(2) "Earnings" shall not include any payment to which paragraph 26 of Schedule 4 (sums to be disregarded in the calculation of income other than earnings) refers.".

Amendment of regulation 35 of the principal regulations

6. In regulation 35 of the principal regulations (notional income)—

(*a*) in paragraph (3)(*a*) for "ordinary clothing or footwear, household fuel or eligible rent or rates or both," there shall be substituted "household fuel or, subject to paragraph (9), rent or rates or both or ordinary clothing or footwear,";

(*b*) for paragraph (9) there shall be substituted the following paragraph—

"(9) In paragraph (3)—

(*a*) "rent or rates" means eligible rent or rates less any deductions

in respect of non-dependants which fall to be made under regulation 63 (non-dependant deductions);

(*b*) ''ordinary clothing or footwear'' means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.''.

Amendment of regulation 36 of the principal regulations

7. In regulation 36(2) of the principal regulations (modifications in respect of child and young person) after ''any income of that child or young person'' there shall be inserted '', other than income consisting of any payment of maintenance whether under a court order or not,''.

Amendment of regulation 43 of the principal regulations

8. In regulation 43 of the principal regulations (notional capital)—

(*a*) in paragraph (3)(*a*) for ''ordinary clothing or footwear, household fuel or eligible rent or rates or both,'' there shall be substituted ''household fuel or, subject to paragraph (7), rent or rates or both or ordinary clothing or footwear,'';

(*b*) for paragraph (7) there shall be substituted the following paragraph—

''(7) In paragraph (3)—

(*a*) ''rent or rates'' means eligible rent or rates less any deductions in respect of non-dependants which fall to be made under regulation 63 (non-dependant deductions);

(*b*) ''ordinary clothing or footwear'' means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.''.

Amendment of regulation 63 of the principal regulations

9. In regulation 63(3) of the principal regulations (non-dependant deductions) for the words from ''where a different amount'' to the end there shall be substituted ''where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount shall be deducted.''.

Amendment of Schedule 1 to the principal regulations

10. In Schedule 1 to the principal regulations (ineligible service charges) in paragraph 2 (amount of ineligible charges)—

(*a*) in sub-paragraph (1A) for ''any service charge to which regulation 10(1)(*e*) (rent) applies and'' there shall be substituted ''any ineligible service charge'';

(*b*) after sub-paragraph (1A) there shall be inserted the following sub-paragraph—

''(1B) In sub-paragraph (1A) ''ineligible service charge'' includes any service charge which does not qualify as a periodical payment under regulation 10(1)(*e*) (rent).''.